

STATE HUMAN RIGHTS COMMITTEE

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Margaret S. Walsh
State Human Rights Director

Kli Kinzie
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COMMONWEALTH of VIRGINIA

Department of Behavioral Health and Developmental Services

*Post Office Box 1797
Richmond, Virginia 23218-1797*

MINUTES STATE HUMAN RIGHTS COMMITTEE

Riverside Behavioral Health Center
Pile Conference Room
2244 Executive Drive
Hampton, Virginia
23666

Administrative Session

8:30 a.m.

Members Present

Carolyn M. DeVilbiss, Chair; T.C. Bullock, Vice-Chair; Ann Bevan, Penny Cameron, Vicki Cash Graff, Marietta Cottingham, Timothy Russell

Members Excused

John Barrett and Ioannis Stivachtis

Staff Present

Michael Curseen, Regional Human Rights Advocate, Region 4
Reginald T. Daye, Regional Human Rights Advocate, Region 5
Beverly Garnes, Regional Human Rights Advocate, Region 6
Timothy Jones, Human Rights Advocate
Kli Kinzie, Executive Secretary
Tammy Long, Human Rights Advocate
Stewart Prost, Human Rights Advocate
Walter Small, Human Rights Advocate
Karen Taylor, DBHDS Special Council
Margaret Walsh, Human Rights Director
Hillary Zaneveld, Human Rights Advocate

Approval of Agenda

At 8:36 upon a motion by T.C. Bullock and seconded by Vicki Cash-Graff the SHRC unanimously approved the agenda for the October 25, 2013 meeting with the removal of the appeal of L.B. v. Central Virginia Community Services LHRC.

Correspondence and Information

At 8:36 the SHRC reviewed correspondence and information.

SHRC Appeal Responses	The committee acknowledged receipt of SHRC appeal responses.
Request for Extension	<p>At 8:39 the SHRC reviewed a request for extension of timeframe to file an Action Plan in response to SHRC Appeal Case 13-03.</p> <p><i>Upon a motion by T.C. Bullock and seconded by Vicki Cash-Graff the SHRC unanimously extended the timeframe to file the action plan in response to the Decision of SHRC Case 13-03.</i></p>
VCBR Appeal Responses	The committee acknowledged receipt of VCBR appeal responses.
LHRC Vacancy Tracking	The SHRC reviewed LHRC vacancies and discussed recruitment and interviews of new members.
Goals Workplan	At 8:42 the SHRC reviewed the Goals Worksheet. Margaret Walsh asked the committee to consider what presentations and status updates it would like to receive in the upcoming year. Ms. Walsh will ask staff of the Forensics office to come speak with them.
VCBR Monthly Reports	<p>At 8:44 the SHRC reviewed monthly reports from VCBR.</p> <p>Margaret Walsh reported on a letter received from the former VCBR RAC Chair.</p>
Newsletter	<p>At 8:48 The SHRC discussed ideas for format and content of the SHRC newsletter. Timothy Russell volunteered to work with Vicki Cash-Graff on the newsletters. Ms. Cash-Graff will provide drafts to Mr. Russell, who will format them.</p> <p>The Committee agreed that newsletter drafts will be developed by Vicki Cash-Graff. Timothy Russell will format the draft and then send to the full SHRC for review and feedback.</p>
Request for Guidance	At 8:52 the SHRC reviewed a request for guidance from the Northern Virginia LHRC Partnership. Local Human Rights Committees would like to receive statewide training. Margaret Walsh stated that the department has not funded the trainings since 2007.
VCBR	<p>At 9:00 The SHRC reviewed VCBR's Nursing Intradepartmental Procedure, discussed training of staff at VCBR and medication errors.</p> <p>At 9:21 the SHRC acknowledged receipt of a letter from a former member of VCBR RAC.</p>

BREAK

At 9:20 Carolyn DeVilbiss called for a break.

Regular Session

9:30 a.m.

Members Present

Carolyn M. DeVilbiss, Chair; T.C. Bullock, Vice-Chair; Ann Bevan, Penny Cameron, Vicki Cash Graff, Marietta Cottingham, Timothy Russell

Members Excused

John Barrett and Ioannis Stivachtis

Staff

Michael Curseen, Regional Human Rights Advocate, Region 4
Reginald T. Daye, Regional Human Rights Advocate, Region 5
Carrie Flowers, Human Rights Advocate
Beverly Garnes, Regional Human Rights Advocate, Region 6
Taneika Goldman, Human Rights Advocate
Timothy Jones, Human Rights Advocate
Kli Kinzie, Executive Secretary
Tammy Long, Human Rights Advocate
Stewart Prost, Human Rights Advocate
Mellie Randall, Director of Substance Abuse Services
Walter Small, Human Rights Advocate
Karen Taylor, DBHDS Special Council
Margaret Walsh, Human Rights Director
Hillary Zaneveld, Human Rights Advocate

Others

Betty Campbell, Hospital Administrator, Riverside Behavioral Health Center
Ms. Jacqueline Abbott, Director of Risk Management/ Performance Improvement, Harbor Point Behavioral Health Center
Ms. Jennifer Kelly, Director of Nursing, Harbor Point Behavioral Health Center
Ms. Dana Gillentine, Risk Manager of the Kempsville Center for Behavioral Health
Mr. Paul Kirkham, Chief Executive Officer of Newport News Behavioral Health.
Dr. Jonina Moskowitz, Interim Director of Quality Assurance, Virginia Beach Department of Human Services Recovery Center
Ms. Theresa Newman, Program Supervisor, Virginia Beach Department of Human Services Recovery Center
Sarah Fuller, Substance Abuse Program Coordinator, Norfolk CSB
M. Mc., Complainant
Mr. Charles Hall, Executive Director, Hampton Newport News CSB
Ms. Michelle Iwaniw, Consumer and Family Affairs Coordinator, Hampton Newport News CSB

Call to Order

At 9:32 Carolyn DeVilbiss called the regular session of the October 25,

2013, SHRC meeting to order. A call for introductions took place prior to proceeding.

Betty Campbell, Hospital Administrator, welcomed the Committee to Riverside Behavior Health Center.

Review of Draft Minutes

The SHRC reviewed draft minutes of the September 13, 2013, SHRC meeting.

Upon a motion by T.C. Bullock and seconded by Penny Cameron the SHRC unanimously approved the minutes of the September 13, 2013 SHRC meeting.

Variance: Harbor Point Behavioral Health Center: Structured Living

At 9:38 the SHRC reviewed the Harbor Point Behavioral Health Center Variance request for use of the Structured Living Policy. Mr. Reginald Daye, Regional Human Rights Advocate, Region V, introduced Ms. Jacqueline Abbott, Director of Risk Management/ Performance Improvement and Ms. Jennifer Kelly, Director of Nursing of the Harbor Point Behavioral Health Center. Ms. Abbott provided a brief overview of the Harbor Point Behavioral Health Center and the population of individuals for whom the variance and its Structured Living Policy would impact.

Mr. Daye indicated that the Harbor Point Behavioral Health Center (HPBHC) is requesting a variance to the following section of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services (Human Rights Regulations)*:

12 VAC 35-115-110C16 -Use of Seclusion, Restraint and Time Out.

Upon a motion by T.C. Bullock and seconded by Marietta Cottingham the SHRC unanimously approved the variance to sections 12 VAC 35-115-110, C16 -Use of Seclusion, Restraint and Time Out, which allows the implementation the HPBHC Structured Living Policy, for a time period of October 25, 2013 through October 25, 2015 with an annual update to the SHRC and quarterly reports to the Tidewater Regional LHRC. The SHRC is also requiring that the program's monitoring form be modified to allow for verification of all staff's monitoring activities.

Variance: Harbor Point Behavioral Health Center: Matrix Level System

The SHRC reviewed the Harbor Point Behavioral Health Center Variance request for use of the Matrix level system. Ms. Abbott provided a brief overview of the Matrix –Level System.

Mr. Daye indicated that the Harbor Point Behavioral Health Center (HPBHC) is requesting a variance to the following sections of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the*

Department of Behavioral Health and Developmental Services (Human Rights Regulations):

12VAC 35-115-100-A1a, Restrictions on Freedoms of Everyday Life.

The variance allows the program to utilize its point level system referred to as “The Matrix – Our Behavior Management Model”. The variance will allow HPBHC to tie an individual’s movement within the service setting, grounds and community to its point level system.

12VAC 35-115-110-C16, Use of seclusion, restraint, and time out.

The variance allows the program to place an individual in “time out” for periods longer than the Human Rights Regulations maximum 30 minutes limit per episode.

Upon a motion by T.C. Bullock and seconded by Marietta Cottingham the SHRC approved the Harbor Point Behavioral Health Center (HPBHC) variance to the following sections of the Human Rights Regulations, for a period of October 25, 2013 through October 25, 2015 with an annual update to the SHRC and quarterly reports to the Tidewater Regional LHRC:

12VAC 35-115-100-A1a, Restrictions on Freedoms of Everyday life and 12VAC 35-115-110-C16, Use of seclusion, restraint, and time out.

Variance: Kempsville Center for Behavioral Health: Level System/ Unit Restriction

The SHRC reviewed the Kempsville Center for Behavioral Health Variance request for use of Level System/ Unit Restriction. Mr. Reginald Daye, Regional Advocate, Region V, introduced Ms. Dana Gillentine, Risk Manager of the Kempsville Center for Behavioral Health (KCBH). Ms. Gillentine provided a brief overview of the Kempsville Center for Behavioral Health and the population of individuals for whom the variances and policies would impact.

Mr. Daye indicated that the Kempsville Center for Behavioral Health is requesting a variance to the following sections of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services (Human Rights Regulations)*:

12 VAC 35-115-100A1a, A1g -Restrictions on freedoms of everyday life;

12 VAC 35-115-110C16 -Use of Seclusion, Restraint and Time Out; and

12 VAC 35-115-50C7& C8-Dignity

Mr. Daye also indicated that if all of the variances are approved, it will allow the program to implement its handbooks and level system which includes the use of unit restrictions that exceeds the 30 minutes requirement for the use of timeout as well as placing restrictions on the individual’s movement within the service setting, restrictions on visitation, the use of the phone and access to the program store/

canteen. The handbooks and level systems apply to the following programs: Child Acute and the Adolescent residential.

Upon a motion was made and unanimously passed to approve the variance to sections 12 VAC 35-115-100A1a, Alg-Restrictions on freedoms of everyday life; 12 VAC 35-115-110C16 -Use of Seclusion, Restraint and Time Out and 12 VAC 35-115-50C7& C8-Dignity, for a time period of October 25, 2013 through October 25, 2015 with an annual update to the SHRC and quarterly reports to the Tidewater Regional LHRC.

The program may implement the handbooks and level systems which include: the use of unit restrictions that exceed the 30 minutes requirement for the use of timeout; placing restrictions on the individual's movement within the service setting; restrictions on visitation; restrictions on the use of the phone and restrictions on access to the program store/ canteen. When Unit Restriction is used the program is required to have the following staffing ratio: One staff member to a maximum of three individual while on unit restriction.

The SHRC also voted to accept the following Tidewater Regional LHRC (TR-LHRC) recommendations:

- A. Provide the TR-LHRC and the Regional Advocate with written quarterly statistical updates on the implementation of the unit restriction policy. This update shall include at a minimum: A listing of the residents placed on unit restriction. The actual amount of time each resident was on the restriction. Identify the residents involved in multiple unit restrictions. Provide details of how you determine the effectiveness of the policy.
- B. Any violations of the approved variance are to be reported to the Regional Advocate within 24 hours and the TR-LHRC each quarter.
- C. The KCBH shall include the above noted data in its annual update and variance renewal, to the State Human Rights Committee.

Variance: Kempsville Center for Behavioral Health: Structured Living Policy

The SHRC reviewed the Kempsville Center for Behavioral Health Variance request for use of the Structured Living Policy. Ms Dana Gillentine, Risk Manager of the Kempsville Center for Behavioral Health provided an overview of the Kempsville Center for Behavioral Health Structured Living Policy.

Mr. Daye indicated that the Kempsville Center for Behavioral Health is requesting a variance to the following section of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services:*

12 VAC 35-115-110C16 -Use of Seclusion, Restraint and Time Out, which is needed in order to implement its Structured Living Policy.

Upon a motion by Vicki Cash-Graff and seconded by Penny Cameron the SHRC unanimously approved the variance to sections 12 VAC 35-115-110, C16 -Use of Seclusion, Restraint and Time Out, which allows the implementation the KCBH Structured Living Policy, for a time period of October 25, 2013 through October 25, 2015 with an annual update to the SHRC and quarterly reports to the Tidewater Regional LHRC. The SHRC is also requiring that the program's monitoring form be modified to allow for verification of all staff's monitoring activities.

Variance: Newport News Behavioral Health: Phone, Visitation and Mail Policies

The SHRC reviewed the Newport News Behavioral Health Variance request pertaining to Phone, Visitation and Mail Policies. Mr. Timothy Jones, Human Rights Advocate, Region V, introduced Mr. Paul Kirkham, Chief Executive Officer of Newport News Behavioral Health. Mr. Kirkham provided a brief overview of the Newport News Behavioral Health and the population of children for whom the variances and policies would impact.

Mr. Jones indicated that Newport News Behavioral Health is requesting variances to the following sections of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services (Human Rights Regulations)*:

12VAC35-115-50.C6-mail

12VAC35-115-50.C7-Dignity-telephone

12VAC35-115-50.ignity-visitors

Mr. Jones reported that Newport News Regional Local Human Rights Committee recommended the approval of 12VAC35-115-50.C7 and C8, which allows the program to place restrictions on the resident's use of the phone and visitors. Newport News Regional Local Human Rights Committee did not recommend the approval of 12VAC35-115-50.C6, which would allow the program to open all mail and packages prior to it being given to the individual.

The SHRC voted on each variance request separately.

Upon a motion by T.C. Bullock and seconded by Vicki Cash-Graff the SHRC unanimously declined to approve the variance to 12VAC35-115-50.C6 Dignity. The program may not routinely open all mail of the individuals before it is given to them. All reference to the aforementioned must be removed from program policies.

Upon a motion by T.C. Bullock and seconded by Vicki Cash-Graff the SHRC unanimously approved the variance to section 12VAC35-115-50.C7&C8, for a two-year period, with an annual update to the State Human Rights Committee and quarterly reports to the Newport News

Regional LHRC. The program may implement its policies, which includes restrictions on the use of the phone and visitation.

The SHRC also voted to accept the following LHRC recommendation: Any violations of the approved variances are to be reported to the Office of Human Rights within 24 hours.

Variance: Virginia Beach Department of Human Services Residential Crisis Stabilization: Level System and Program Rules

At 10:35 the SHRC reviewed the Virginia Beach Department of Human Services Residential Crisis Stabilization Variance request for use of Level System and Program Rules. Stewart Prost, Human Rights Advocate for Region 5, introduced Dr. Jonina Moskowitz, Interim Director of Quality Assurance and Ms. Theresa Newman, Program Supervisor of the Virginia Beach Department of Human Services Recovery Center. Dr. Moskowitz provided a brief overview of the Virginia Beach Department of Human Services Crisis Stabilization Program and the population for whom the variance and program rules would impact.

Mr. Prost reported that the Virginia Beach Department of Human Services is seeking a variance to section of 12 VAC 35-115-50, Items C7 and C8, Dignity of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services (Human Rights Regulations)*. The requested variance allows the VBDHS Residential Crisis Stabilization Program to implement its level system and program rules of conduct, which restricts the resident's use of the telephone and visitation.

Upon a motion by Penny Cameron and seconded by Marietta Cottingham the SHRC approved, for a two year period with an annual status report to the SHRC and quarterly updated to the Virginia Beach Area LHRC, the Virginia Beach Department of Human Services Residential Crisis Stabilization Program variance request and program rules. The SHRC also requires that the program remove from its program rules the reference to opening all mail and packages of the individual before it is given to them.

Variance Withdrawal: St. Mary's Home for Disabled Children

At 10:43 Mr. Reginald Daye, Regional Advocate, reported that St. Mary's Home for Disabled Children withdraws the variance to section 12 VAC 35-115-110, B3, 7b, 14, 17, 19 – Use of Seclusion, Restraint and Time Out, of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services (Human Rights Regulations)* which allowed for the use of the treatment plan for K.M. Stewart Prost indicated his support of the Variance withdrawal.

Public Comment

At 10:45 Carolyn DeVilbiss called for public comments. No public comments were offered.

Update: Substance Abuse Programs

At 10:52 Mellie Randall, Director of Substance Abuse Programs, DBHDS, and Sarah Fuller, SA Program Coordinator, Norfolk CSB, led a panel discussion on current activities and initiatives of substance abuse services in the Commonwealth.

Appeal: M.Mc. vs. Hampton Newport News CSB (Southeast Alliance LHRC)

At 11:38 the SHRC considered the Appeal of M.Mc. vs. Hampton Newport News CSB. This case came before the SHRC on appeal of the decision of the Southeast Alliance LHRC following a fact finding hearing that took place on August 8, 2013. M. Mc presented his case with support from Stewart Prost, Human Rights Advocate. Mr. Charles Hall, Executive Director of the Hampton Newport News (HNN) Community Services Board (CSB), and Ms. Michelle Iwaniw, Consumer and Family Affairs Coordinator, represented the CSB. SHRC members present were Carolyn DeVilbiss, Penny Cameron, Vicki Cash-Graff, Timothy Russell, T.C. Bullock, Ann Bevin, and Marietta Cottingham.

M. Mc. brings this appeal because he disagrees with the findings and recommendations of the Southeast Alliance LHCR in its entirety, and he is dissatisfied with the Director's action plan. In addition to the arguments presented in his appeal to the LHRC, he also contends that the Southeast Alliance LHRC findings were arbitrary, capricious, and unfair. He alleges the CSB did, in fact, violate his rights under 12 VAC 35-115-70(A) (5), Complaint Resolution Process, 12 VAC 35-115-80 (A) Confidentiality, and 12 VAC 35-115-50 (A), Dignity, and he believes that the other parties involved lied during their testimony. He seeks compensatory and punitive damages.

The SHRC heard statements from parties to the case.

Upon a motion by Vicki Cash-Graff and seconded by Ann Bevan the SHRC unanimously upholds the findings and recommendations of Southeast Alliance LHRC in this matter.

BREAK

At 12:35 Carolyn DeVilbiss called for a break for lunch.

LHRC Membership

At 12:49 the meeting reconvened and the SHRC considered local human rights committee membership.

Upon a motion by Timothy Russell and seconded by Penny Cameron the SHRC unanimously voted to add an application to the Piedmont Geriatric Hospital LHRC to the agenda.

Upon a motion by T.C. Bullock and seconded by Vicki Cash Graff the SHRC convened in closed session pursuant to Virginia Code §2.2-3711(1) for the purpose of discussion and consideration of appointments to and removals from Local Human Rights Committees.

Upon reconvening in open session, the State Human Rights Committee certified that to the best of each member's knowledge, only public business matters lawfully exempt from statutory open meeting requirements, and only public business matters identified in the motion to convene the closed session were discussed in closed session.

Appointments

Upon a motion by Ann Bevan and seconded by Vicki Cash-Graff the SHRC unanimously moved to make the following local human rights committee appointments, reappointments and removals as indicated.

Region 1

Region Ten CSB LHRC
Reappoint: Mr. John Shepherd

Region 3

New River Valley LHRC
Appoint: Ms. Sandra Via

Region 4

Central Area LHRC
Reappoint: Ms. Carol Gittman
Chester Regional LHRC
Appoint: Ms. Miranda Valentine-Fife
New Creation LHRC
Appoint: Ms. Monica Lucas
Piedmont Geriatric Hospital LHRC
Appoint: Ms. Ann Parchert
Reappoint: Ms. Margie Nevins
Richmond Tri-Cities LHRC
Appoint: Ms. Jan H. French
Piedmont Geriatric Hospital LHRC
Appoint: Mr. Kenneth M. Shores

Region 5

Atlantic Regional LHRC
Appoint: Mr. Bruce Copeland
Southside Regional LHRC
Appoint: Mr. Tony Foy
Virginia Beach Area LHRC
REMOVE: Mr. John A. Winfield

Region 6

Piedmont Community Services LHRC
Appoint: Ms. Nancy Sprinkle

Other Business

Reporting on Attending
LHRC Meetings

At 12:23 Ann Bevan reported on several LHRC meeting she attended as Liaison to the SHRC for her catchment area.

SHRC members should contact advocates regarding LHRC meeting dates and locations or visit the department's web site for information.

LHRC Recruitment At 12:36 the SHRC discussed LHRC member recruitment. T.C. Bullock and Beverly Garnes, Human rights Advocate, reported that they were working on bringing new members on by December.

Miscellaneous At 12:58 Margaret Walsh discussed proposed changes to information provided on the DBHDS web site regarding LHRCs and Advocate meetings and contact information.

Margaret Walsh discussed upcoming changes to the structure and function of the local human rights committees. Ms. Walsh indicated that training will be needed to bring the human rights program in line with the department's initiatives. The human rights office will work on Increasing skills, training and support to LHRCs. Human Rights Advocates will be expected to train program staff and agency staff in rights and rights assurances.

Margaret Walsh reported on proposed changes to the Human Rights Regulation.

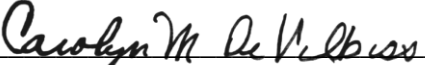
Margaret Walsh will have staff develop guidelines for issuing LHRC Decisions and on submitting Appeals to the SHRC.

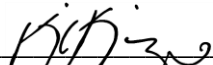
Penny Cameron asked about the status of the Patient Funds policy. Margaret Walsh will provide a copy of the Departmental Instruction at the next meeting.

Adjournment *At 2:28:23 the meeting adjourned.*

The next meeting is scheduled for Friday, December 13, 2013, at DBHDS Central Office on 1220 Bank Street, Richmond, Virginia, 23219.

Respectfully Submitted,


 Carolyn M. DeVilbiss, Chair de Facto


 Kli Kinzie, Secretary